

House Amendment 1319

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1 1 Amend House File 805 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <DIVISION I
1 5 OPEN FEEDLOT OPERATIONS
1 6 SUBCHAPTER I
1 7 GENERAL PROVISIONS
1 8 Section 1. NEW SECTION. 459A.101 TITLE.
1 9 This chapter shall be known and may be cited as the
1 10 "Animal Agriculture Compliance Act for Open Feedlot
1 11 Operations".
1 12 Sec. 2. NEW SECTION. 459A.102 DEFINITIONS.
1 13 1. "Alternative technology system" or "alternative
1 14 system" means a system for open feedlot effluent
1 15 control as provided in section 459A.303.
1 16 2. "Animal" means the same as defined in section
1 17 459.102.
1 18 3. "Animal feeding operation" means the same as
1 19 defined in section 459.102.
1 20 4. "Animal unit" means the same as defined in
1 21 section 459.102.
1 22 5. "Animal unit capacity" means a measurement used
1 23 to determine the maximum number of animal units that
1 24 may be maintained as part of an open feedlot
1 25 operation.
1 26 6. "A.S.T.M. international" means the American
1 27 society for testing and materials international.
1 28 7. "Commission" means the environmental protection
1 29 commission created pursuant to section 455A.6.
1 30 8. "Department" means the department of natural
1 31 resources.
1 32 9. "Document" means any form required to be
1 33 processed by the department under this chapter,
1 34 including but not limited to applications for permits
1 35 or related materials as provided in section 459A.205,
1 36 soils and hydrogeologic reports as provided in section
1 37 459A.206, construction certifications as provided in
1 38 section 459A.207, nutrient management plans as
1 39 provided in section 459A.208, and notices required
1 40 under this chapter.
1 41 10. "Nutrient management plan" or "plan" means a
1 42 plan which provides for the management of open feedlot
1 43 effluent, including the application of effluent as
1 44 provided in section 459A.208.
1 45 11. "Open feedlot" means a lot, yard, corral,
1 46 building, or other area used to house animals in
1 47 conjunction with an open feedlot operation.
1 48 12. "Open feedlot effluent" or "effluent" means a
1 49 combination of manure, precipitation-induced runoff,
1 50 or other runoff from an open feedlot before its
2 1 settleable solids have been removed.
2 2 13. "Open feedlot operation" or "operation" means
2 3 an unroofed or partially roofed animal feeding
2 4 operation if crop, vegetation, or forage growth or
2 5 residue cover is not maintained as part of the animal
2 6 feeding operation during the period that animals are
2 7 confined in the animal feeding operation.
2 8 14. "Open feedlot operation structure" means an
2 9 open feedlot, settled open feedlot effluent basin, a
2 10 solids settling facility, or an alternative technology
2 11 system. "Open feedlot operation structure" does not
2 12 include a manure storage structure as defined in
2 13 section 459.102.
2 14 15. "Operating permit" means a permit which
2 15 regulates the operation of an open feedlot operation
2 16 as issued by the department or the United States
2 17 environmental protection agency, including as provided
2 18 in state law or pursuant to the federal Water
2 19 Pollution Control Act, Title 33, U.S.C., ch. 126, as
2 20 amended, and 40 C.F.R., pt. 124.
2 21 16. "Research college" means an accredited public
2 22 or private college or university, including but not
2 23 limited to a university under the control of the state
2 24 board of regents as provided in chapter 262, or a

2 25 community college under the jurisdiction of a board of
2 26 directors for a merged area as provided in chapter
2 27 260C, if the college or university performs research
2 28 or experimental activities regarding animal
2 29 agriculture or agronomy.
2 30 17. "Settled open feedlot effluent" or "settled
2 31 effluent" means a combination of manure,
2 32 precipitation=induced runoff, or other runoff
2 33 originating from an open feedlot after its settleable
2 34 solids have been removed.
2 35 18. "Settleable solids" or "solids" means that
2 36 portion of open feedlot effluent that meets all of the
2 37 following requirements:
2 38 a. The solids do not flow perceptibly under
2 39 pressure.
2 40 b. The solids are not capable of being transported
2 41 through a mechanical pumping device designed to move a
2 42 liquid.
2 43 c. The constituent molecules of the solids do not
2 44 flow freely among themselves but do show the tendency
2 45 to separate under stress.
2 46 19. "Settled open feedlot effluent basin" or
2 47 "basin" means an impoundment which is part of an open
2 48 feedlot operation, if the primary function of the
2 49 impoundment is to collect and store settled open
2 50 feedlot effluent.
3 1 20. "Solids settling facility" means a basin,
3 2 terrace, diversion, or other structure or solids
3 3 removal method which is part of an open feedlot
3 4 operation and which is designed and operated to remove
3 5 settleable solids from open feedlot effluent. A
3 6 "solids settling facility" does not include a basin,
3 7 terrace, diversion, or other structure or solids
3 8 removal method which retains the liquid portion of
3 9 open feedlot effluent for more than seven consecutive
3 10 days following a precipitation event.
3 11 21. "Water of the state" means the same as defined
3 12 in section 455B.171.
3 13 22. "Waters of the United States" means the same
3 14 as defined in 40 C.F.R., pt. 122, } 2, as that section
3 15 exists on the effective date of this Act.
3 16 Sec. 3. NEW SECTION. 459A.103 SPECIAL TERMS.
3 17 For purposes of this chapter, all of the following
3 18 shall apply:
3 19 1. a. Two or more open feedlot operations under
3 20 common ownership or common management are deemed to be
3 21 a single open feedlot operation if they are adjacent
3 22 or utilize a common area or system for open feedlot
3 23 effluent disposal.
3 24 b. For purposes of determining whether two or more
3 25 open feedlot operations are adjacent, all of the
3 26 following shall apply:
3 27 (1) At least one open feedlot operation structure
3 28 must be constructed on or after July 17, 2002.
3 29 (2) An open feedlot operation structure which is
3 30 part of one open feedlot operation is separated by
3 31 less than one thousand two hundred fifty feet from an
3 32 open feedlot operation structure which is part of the
3 33 other open feedlot operation.
3 34 c. For purposes of determining whether two or more
3 35 open feedlot operations are under common ownership, a
3 36 person must hold an interest in each of the open
3 37 feedlot operations as any of the following:
3 38 (1) A sole proprietor.
3 39 (2) A joint tenant or tenant in common.
3 40 (3) A holder of a majority equity interest in a
3 41 business association as defined in section 202B.102,
3 42 including but not limited to as a shareholder,
3 43 partner, member, or beneficiary.
3 44 An interest in the open feedlot operation under
3 45 subparagraph (2) or (3) which is held directly or
3 46 indirectly by the person's spouse or dependent child
3 47 shall be attributed to the person.
3 48 d. For purposes of determining whether two or more
3 49 open feedlot operations are under common management, a
3 50 person must have significant control of the management
4 1 of the day-to-day operations of each of the open
4 2 feedlot operations. Common management does not
4 3 include control over a contract livestock facility by
4 4 a contractor, as defined in section 202.1.
4 5 2. An open feedlot operation structure is

4 6 "constructed" when any of the following occurs:
4 7 a. Excavation commences for a proposed open
4 8 feedlot operation structure or proposed expansion of
4 9 an existing open feedlot operation structure.
4 10 b. Forms for concrete are installed for a proposed
4 11 open feedlot operation structure or the proposed
4 12 expansion of an existing open feedlot operation
4 13 structure.
4 14 c. Piping for the movement of open feedlot
4 15 effluent is installed within or between open feedlot
4 16 operation structures as proposed or proposed to be
4 17 expanded.

4 18 3. In calculating the animal unit capacity of an
4 19 open feedlot operation, the animal unit capacity shall
4 20 include the animal unit capacity of all open feedlots
4 21 which are part of the open feedlot operation, unless
4 22 an open feedlot has been abandoned as provided in this
4 23 section. The animal unit capacity of an open feedlot
4 24 operation shall not include the animal unit capacity
4 25 of any confinement feeding operation building as
4 26 defined in section 459.102, which is part of the open
4 27 feedlot operation.

4 28 4. An open feedlot operation structure is
4 29 abandoned if the open feedlot operation structure has
4 30 been razed, removed from the site of an open feedlot
4 31 operation, filled in with earth, or converted to uses
4 32 other than an open feedlot operation structure so that
4 33 it cannot be used as an open feedlot operation
4 34 structure without significant reconstruction.

4 35 5. All distances between locations or objects
4 36 provided in this chapter shall be measured in feet
4 37 from their closest points.

4 38 6. The regulation of open feedlot effluent shall
4 39 be construed as also regulating settled open feedlot
4 40 effluent and solids.

4 41 7. "Seasonal high=water table" means the seasonal
4 42 high=water table as determined by a professional
4 43 engineer pursuant to the following requirements:
4 44 a. The seasonal high=water table shall be
4 45 determined by evaluating soil profile characteristics
4 46 such as color and mottling from soil corings, soil
4 47 test pits, or other soil profile evaluation methods,
4 48 water level data from soil corings or other sources,
4 49 and other pertinent information.

4 50 b. If a drainage tile line to artificially lower
5 1 the seasonal high=water table is installed as required
5 2 by this section, the level to which the seasonal high=
5 3 water table will be lowered will be the seasonal high=
5 4 water table.

5 5 Sec. 4. NEW SECTION. 459A.104 GENERAL AUTHORITY
5 6 == COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.

5 7 1. The commission shall establish by rule adopted
5 8 pursuant to chapter 17A, requirements relating to the
5 9 construction, including expansion, or operation of
5 10 open feedlot operations, including related open
5 11 feedlot operation structures.

5 12 2. Any provision referring generally to compliance
5 13 with the requirements of this chapter as applied to
5 14 open feedlot operations also includes compliance with
5 15 requirements in rules adopted by the commission
5 16 pursuant to this section, orders issued by the
5 17 department as authorized under this chapter, and the
5 18 terms and conditions applicable to licenses,
5 19 certifications, permits, or nutrient management plans
5 20 required under this chapter.

5 21 3. The purpose of this chapter is to provide
5 22 requirements relating to the construction, including
5 23 the expansion, and operation of open feedlot
5 24 operations, and the control of open feedlot effluent,
5 25 which shall be construed to supplement applicable
5 26 provisions of chapter 459. If there is a conflict
5 27 between the provisions of this chapter and chapter
5 28 459, the provisions of this chapter shall prevail.

5 29 Sec. 5. NEW SECTION. 459A.105 EXCEPTION TO
5 30 REGULATION.

5 31 1. Except as provided in subsection 2, the
5 32 requirements of this chapter which regulate open
5 33 feedlot operations, including rules adopted by the
5 34 department pursuant to section 459A.104, shall not
5 35 apply to research activities and experiments performed
5 36 under the authority and regulations of a research

5 37 college, if the research activities and experiments
5 38 relate to an open feedlot operation structure or the
5 39 disposal or treatment of effluent originating from an
5 40 open feedlot operation.

5 41 2. The requirements of section 459A.410, including
5 42 rules adopted by the department under that section,
5 43 apply to research activities and experiments performed
5 44 under the authority and regulations of a research
5 45 college.

5 46 SUBCHAPTER II
5 47 DOCUMENTATION

5 48 Sec. 6. NEW SECTION. 459A.201 DOCUMENT
5 49 PROCESSING REQUIREMENTS.

5 50 1. The department shall adopt and promulgate forms
6 1 required to be completed in order to comply with this
6 2 chapter, including forms for documents that the
6 3 department shall make available on the internet in the
6 4 same manner as provided in section 459.302.

6 5 2. a. The department shall provide for procedures
6 6 for the receipt, filing, processing, and return of
6 7 documents in an electronic format in the same manner
6 8 as provided in section 459.302. The department shall
6 9 provide for authentication of the documents that may
6 10 include electronic signatures as provided in chapter
6 11 554D.

6 12 b. The department shall to every extent feasible
6 13 provide for the processing of documents required under
6 14 this subchapter using electronic systems in the same
6 15 manner as required in section 459.302.

6 16 3. a. The department shall approve or disapprove
6 17 an application for a construction permit as provided
6 18 in section 459A.205 within sixty days after receiving
6 19 the permit application. However, the applicant may
6 20 deliver a notice requesting a continuance. Upon
6 21 receipt of a notice, the time required for the
6 22 department to act upon the application shall be
6 23 suspended for the period provided in the notice, but
6 24 for not more than thirty days after the department's
6 25 receipt of the notice. The applicant may submit more
6 26 than one notice. However, the department may provide
6 27 that an application is terminated if no action is
6 28 required by the department for one year following
6 29 delivery of the application to the department. The
6 30 department may also provide for a continuance when it
6 31 considers the application. The department shall
6 32 provide notice to the applicant of the continuance.
6 33 The time required for the department to act upon the
6 34 application shall be suspended for the period provided
6 35 in the notice, but for not more than thirty days.
6 36 However, the department shall not provide for more
6 37 than one continuance.

6 38 b. A nutrient management plan as provided in
6 39 section 459A.208 shall be approved or disapproved as
6 40 part of a construction permit application pursuant to
6 41 section 459A.205. If the nutrient management plan is
6 42 not part of an application for a construction permit,
6 43 the nutrient management plan shall be approved or
6 44 disapproved within sixty days from the date that the
6 45 department receives the nutrient management plan.

6 46 Sec. 7. NEW SECTION. 459A.205 PERMIT
6 47 REQUIREMENTS == SETTLED OPEN FEEDLOT EFFLUENT BASINS
6 48 AND ALTERNATIVE TECHNOLOGY SYSTEMS.

6 49 1. The department shall approve or disapprove
6 50 applications for permits for the construction,
7 1 including the expansion, of settled open feedlot
7 2 effluent basins and alternative technology systems, as
7 3 provided in this chapter. The department's decision
7 4 to approve or disapprove a permit for the construction
7 5 of a basin or alternative system shall be based on
7 6 whether the application is submitted according to
7 7 procedures and standards required by this chapter. A
7 8 person shall not begin construction of a basin or
7 9 alternative system requiring a permit under this
7 10 section, unless the department first approves the
7 11 person's application and issues to the person a
7 12 construction permit.

7 13 2. The department shall issue a construction
7 14 permit upon approval of an application. The
7 15 department shall approve the application regardless of
7 16 whether the applicant is required to be issued a
7 17 construction permit.

7 18 3. The department shall not approve an application
7 19 for a construction permit unless the applicant submits
7 20 all of the following:

7 21 a. A nutrient management plan as provided in
7 22 section 459A.208.

7 23 b. An engineering report, construction plans, or
7 24 specifications prepared by a licensed professional
7 25 engineer or the natural resources conservation service
7 26 of the United States department of agriculture
7 27 certifying that the construction of the settled open
7 28 feedlot effluent basin or alternative technology
7 29 system complies with the construction design standards
7 30 required in this chapter.

7 31 4. An open feedlot operation must be issued a
7 32 construction permit prior to any of the following:

7 33 a. The construction, including expansion, of a
7 34 settled open feedlot effluent basin or alternative
7 35 technology system if the open feedlot operation is
7 36 required to be issued an operating permit.

7 37 b. The department has previously issued the open
7 38 feedlot operation a construction permit and any of the
7 39 following applies:

7 40 (1) The animal unit capacity of the open feedlot
7 41 operation will be increased to more than the animal
7 42 unit capacity approved by the department in the
7 43 previous construction permit.

7 44 (2) The volume of open feedlot effluent stored at
7 45 the open feedlot operation would be more than the
7 46 volume approved by the department in the previous
7 47 construction permit.

7 48 (3) The open feedlot operation was discontinued
7 49 for twenty-four months or more and the animal unit
7 50 capacity would be one thousand animal units or more.

8 1 5. Prior to submitting an application for a
8 2 construction permit the applicant may submit a
8 3 conceptual design and site investigation report to the
8 4 department for review and comment.

8 5 6. The application for the construction permit
8 6 shall include all of the following:

8 7 a. The name of the owner of the open feedlot
8 8 operation and the name of the open feedlot operation,
8 9 including a mailing address and telephone number for
8 10 the owner and the operation.

8 11 b. The name of the contact person for the open
8 12 feedlot operation, including the person's mailing
8 13 address and telephone number.

8 14 c. The location of the open feedlot operation.

8 15 d. A statement providing that the application is
8 16 for any of the following:

8 17 (1) The construction or expansion of a settled
8 18 open feedlot effluent basin or alternative technology
8 19 system for an existing open feedlot operation which is
8 20 not expanding.

8 21 (2) The construction or expansion of a settled
8 22 open feedlot effluent basin or alternative technology
8 23 system for an existing open feedlot operation which is
8 24 expanding.

8 25 (3) The construction of a settled open feedlot
8 26 effluent basin or alternative technology system for a
8 27 proposed new open feedlot operation.

8 28 e. The animal unit capacity for each animal
8 29 species in the open feedlot operation before and after
8 30 the proposed construction.

8 31 f. An engineering report, construction plans, and
8 32 specifications prepared by a licensed professional
8 33 engineer or by the United States natural resource
8 34 conservation service, for the settled open feedlot
8 35 operation effluent basin or alternative technology
8 36 system.

8 37 g. A soils and hydrogeologic report of the site,
8 38 as required in section 459A.206.

8 39 h. Information, including but not limited to maps,
8 40 drawings, and aerial photos that clearly show the
8 41 location of all of the following:

8 42 (1) The open feedlot operation and all existing
8 43 and proposed settled open feedlot effluent basins or
8 44 alternative technology systems, clean water
8 45 diversions, and other pertinent features or
8 46 structures.

8 47 (2) Any other open feedlot operation under common
8 48 ownership or common management and located within one

8 49 thousand two hundred fifty feet of the open feedlot
8 50 operation.

9 1 (3) A public water supply system as defined in
9 2 section 455B.171 or a drinking water well which is
9 3 located within a distance from the operation as
9 4 prescribed by rules adopted by the department.
9 5 i. For an open feedlot operation implementing an
9 6 alternative technology system as provided in section
9 7 459A.303, the applicant shall submit all of the
9 8 following:

9 9 (1) Information showing that the proposed open
9 10 feedlot operation meets criteria for siting as
9 11 established by rules adopted by the department.
9 12 However, if the site does not meet the criteria, the
9 13 information shall show substantially equivalent
9 14 alternatives to meeting such criteria.

9 15 (2) The results of predictive computer modeling
9 16 for the proposed alternative technology system to
9 17 determine suitability of the proposed site for the
9 18 system and to predict performance of the alternative
9 19 technology system as compared to the use of a settled
9 20 open feedlot effluent basin.

9 21 (3) A conceptual design of the proposed
9 22 alternative technology system, as developed by a
9 23 licensed engineer.

9 24 7. a. Except as provided in paragraph "b", a
9 25 construction permit for an open feedlot operation
9 26 expires as follows:

9 27 (1) If construction does not begin within one year
9 28 after the date the construction permit is issued.

9 29 (2) If construction is not completed within three
9 30 years after the date the construction permit is
9 31 issued.

9 32 b. If requested, the department may grant an
9 33 extension of time to begin or complete construction
9 34 upon a showing of just cause by the construction
9 35 permit applicant.

9 36 8. The department may suspend or revoke a
9 37 construction permit, modify the terms or conditions of
9 38 a construction permit, or disapprove a request to
9 39 extend the time to begin or complete construction as
9 40 provided in this section, if it determines that the
9 41 operation of the open feedlot operation constitutes a
9 42 clear, present, and impending danger to public health
9 43 or the environment.

9 44 9. This section does not require a person to
9 45 obtain a permit to construct a settled open feedlot
9 46 effluent basin or alternative technology system if the
9 47 basin or system is part of an open feedlot operation
9 48 which is owned by a research college conducting
9 49 research activities as provided in section 459A.105.

9 50 Sec. 8. NEW SECTION. 459A.206 SETTLED OPEN
10 1 FEEDLOT EFFLUENT BASINS == SOILS AND HYDROGEOLOGIC
10 2 REPORT.

10 3 A settled open feedlot effluent basin required to
10 4 be constructed pursuant to a construction permit
10 5 issued pursuant to section 459A.205 shall meet design
10 6 standards as required by a soils and hydrogeologic
10 7 report.

10 8 The report shall be submitted with the construction
10 9 permit application as provided in section 459A.205.
10 10 The report shall include all of the following:

10 11 1. A description of the steps to determine the
10 12 soils and hydrogeologic conditions at the proposed
10 13 construction site, a description of the geologic units
10 14 encountered, and a description of the effects of the
10 15 soil and groundwater elevation and direction of flow
10 16 on the construction and operation of the basin.

10 17 2. The subsurface soil classification of the site.
10 18 A subsurface soil classification shall be based on
10 19 A.S.T.M international designation D=2487=92 or D=
10 20 2488=90.

10 21 3. The results of at least three soil corings
10 22 reflecting the continuous soil profile taken for each
10 23 basin. The soil corings shall be taken and used in
10 24 determining subsurface soil characteristics and
10 25 groundwater elevation and direction of flow of the
10 26 proposed site for construction. The soil corings
10 27 shall be taken as follows:

10 28 a. By a qualified person ordinarily engaged in the
10 29 practice of taking soil cores and in performing soil

10 30 testing.

10 31 b. At locations that reflect the continuous soil
10 32 profile conditions existing within the area of the
10 33 proposed basin, including conditions found near the
10 34 corners and the deepest point of the proposed basin.
10 35 The soil corings shall be taken to a minimum depth of
10 36 ten feet below the bottom elevation of the basin.

10 37 c. By a method such as hollow stem auger or other
10 38 method that identifies the continuous soil profile and
10 39 does not result in the mixing of soil layers.

10 40 Sec. 9. NEW SECTION. 459A.207 CONSTRUCTION
10 41 CERTIFICATION.

10 42 1. The owner of an open feedlot operation who is
10 43 issued a construction permit for a settled open
10 44 feedlot effluent basin as provided in section 459A.205
10 45 after the effective date of this Act shall submit to
10 46 the department a construction certification from a
10 47 licensed professional engineer certifying all of the
10 48 following:

10 49 a. The basin was constructed in accordance with
10 50 the design plans submitted to the department as part
11 1 of an application for a construction permit pursuant
11 2 to section 459A.205. If the actual construction
11 3 deviates from the approved design plans, the
11 4 construction certification shall identify all changes
11 5 and certify that the changes were consistent with all
11 6 applicable standards of this section.

11 7 b. The basin was inspected by the licensed
11 8 professional engineer after completion of construction
11 9 and before commencement of operation.

11 10 2. A written record of an investigation for tile
11 11 lines, including the findings of the investigation and
11 12 actions taken to comply with subchapter III, shall be
11 13 submitted as part of the construction certification.

11 14 Sec. 10. NEW SECTION. 459A.208 NUTRIENT
11 15 MANAGEMENT PLAN == REQUIREMENTS.

11 16 1. The owner of an open feedlot operation which
11 17 has an animal unit capacity of one thousand animal
11 18 units or more or which is required to be issued an
11 19 operating permit shall develop and maintain a nutrient
11 20 management plan meeting the requirements of this
11 21 section by December 31, 2006.

11 22 2. Not more than one open feedlot operation shall
11 23 be covered by a single nutrient management plan.

11 24 3. A person shall not remove open feedlot effluent
11 25 from an open feedlot operation structure which is part
11 26 of an open feedlot operation for which a nutrient
11 27 management plan is required under this section, unless
11 28 the department approves a nutrient management plan as
11 29 required in this section. The department may adopt
11 30 rules allowing a person to remove open feedlot
11 31 effluent from an open feedlot operation structure
11 32 until the nutrient management plan is approved or
11 33 disapproved by the department according to terms and
11 34 conditions required by rules adopted by the
11 35 department.

11 36 4. The department shall not approve an application
11 37 for a permit to construct a settled open feedlot
11 38 effluent basin unless the owner of the open feedlot
11 39 operation applying for approval submits a nutrient
11 40 management plan together with the application for the
11 41 construction permit as provided in section 459A.205.
11 42 The owner shall also submit proof that the owner has
11 43 published a notice for public comment as provided in
11 44 this section. The department shall approve or
11 45 disapprove the nutrient management plan as provided in
11 46 section 459A.201. A nutrient management plan using an
11 47 alternative technology system shall not include
11 48 requirements for settled effluent that enters the
11 49 alternative technology system.

11 50 5. Prior to approving or disapproving a nutrient
12 1 management plan as required in this section, the
12 2 department may receive comments exclusively to
12 3 determine whether the nutrient management plan is
12 4 submitted according to procedures required by the
12 5 department and that the nutrient management plan
12 6 complies with the provisions of this chapter.

12 7 a. The owner of the open feedlot operation shall
12 8 publish a notice for public comment in a newspaper
12 9 having a general circulation in the county where the
12 10 open feedlot operation is or is proposed to be located

12 11 and in the county where open feedlot effluent, which
12 12 originates from the open feedlot operation, may be
12 13 applied under the terms and conditions of the nutrient
12 14 management plan.

12 15 b. The notice for public comment shall include all
12 16 of the following:

12 17 (1) The name of the owner of the open feedlot
12 18 operation submitting the nutrient management plan.

12 19 (2) The name of the township where the open
12 20 feedlot operation is or is proposed to be located and
12 21 the name of the township where open feedlot effluent
12 22 originating from the open feedlot operation may be
12 23 applied.

12 24 (3) The animal unit capacity of the open feedlot
12 25 operation.

12 26 (4) The time when and the place where the nutrient
12 27 management plan may be examined as provided in section
12 28 22.2.

12 29 (5) Procedures for providing public comment to the
12 30 department. The notice shall also include procedures
12 31 for requesting a public hearing conducted by the
12 32 department. The department is not required to conduct
12 33 a public hearing if it does not receive a request for
12 34 the public hearing within ten days after the first
12 35 publication of the notice for public comment as
12 36 provided in this subsection. If such a request is
12 37 received, the public hearing must be conducted within
12 38 thirty days after the first date that the notice for
12 39 public comment was published.

12 40 (6) A statement that a person may acquire
12 41 information relevant to making comments under this
12 42 subsection by accessing the department's internet
12 43 website. The notice for public comment shall include
12 44 the address of the department's internet website as
12 45 required by the department.

12 46 c. The department shall maintain an internet
12 47 website where persons may access information relevant
12 48 to making comments under this subsection. The
12 49 department may include an electronic version of the
12 50 nutrient management plan as provided in section
13 1 459A.201. The department shall include information
13 2 regarding the time when, the place where, and the
13 3 manner in which persons may participate in a public
13 4 hearing as provided in this subsection.

13 5 6. A nutrient management plan must be
13 6 authenticated by the owner of the animal feeding
13 7 operation as required by the department in accordance
13 8 with section 459A.201.

13 9 7. A nutrient management plan shall include all of
13 10 the following:

13 11 a. Restrictions on the application of open feedlot
13 12 effluent based on all of the following:

13 13 (1) Calculations necessary to determine the land
13 14 area required for the application of open feedlot
13 15 effluent from an open feedlot operation based on
13 16 nitrogen use levels in order to obtain optimum crop
13 17 yields according to a crop schedule specified in the
13 18 nutrient management plan, and according to
13 19 requirements adopted by the department.

13 20 (2) A phosphorus index established pursuant to
13 21 section 459.312.

13 22 b. Information relating to the application of the
13 23 open feedlot effluent, including all of the following:

13 24 (1) Nutrient levels of the open feedlot effluent.
13 25 (2) Application methods, the timing of the
13 26 application, and the location of the land where the
13 27 application occurs.

13 28 c. If the application is on land other than land
13 29 owned or rented for crop production by the owner of
13 30 the open feedlot operation, the plan shall include a
13 31 copy of each written agreement executed by the owner
13 32 of the open feedlot operation and the landowner or the
13 33 person renting the land for crop production where the
13 34 open feedlot effluent may be applied.

13 35 d. An estimate of the open feedlot effluent volume
13 36 or weight produced by the open feedlot operation.

13 37 e. Information which shows all of the following:

13 38 (1) There is adequate storage for open feedlot
13 39 effluent, including procedures to ensure proper
13 40 operation and maintenance of the storage structures.
13 41 (2) The proper management of animal mortalities to

13 42 ensure that animals are not disposed of in an open
13 43 feedlot operation structure or a treatment system that
13 44 is not specifically designed to treat animal
13 45 mortalities.

13 46 (3) Surface drainage prior to contact with an open
13 47 feedlot structure is diverted, as appropriate, from
13 48 the open feedlot operation.

13 49 (4) Animals kept in the open feedlot operation do
13 50 not have direct contact with any waters of the United
14 1 States.

14 2 (5) Chemicals or other contaminants handled on=
14 3 site are not disposed of in an open feedlot operation
14 4 structure or a treatment system that is not
14 5 specifically designed to treat such chemicals or
14 6 contaminants.

14 7 8. If an open feedlot operation uses an
14 8 alternative technology system as provided in section
14 9 459A.303, the nutrient management plan is not required
14 10 to provide for settled effluent that enters the
14 11 alternative technology system.

14 12 9. The owner of an open feedlot operation who is
14 13 required to develop and maintain a nutrient management
14 14 plan shall maintain a current nutrient management plan
14 15 and maintain records sufficient to demonstrate
14 16 compliance with the nutrient management plan. Chapter
14 17 22 shall not apply to the records which shall be kept
14 18 confidential by the department and its agents and
14 19 employees. The contents of the records are not
14 20 subject to disclosure except as follows:

14 21 a. Upon waiver by the owner of the open feedlot
14 22 operation.

14 23 b. In a contested case proceeding commenced under
14 24 chapter 17A. Notwithstanding section 17A.19, the
14 25 proceeding shall be closed.

14 26 c. When required by subpoena or court order.

14 27 10. The owner of an open feedlot operation who is
14 28 found in violation of the terms and conditions of the
14 29 nutrient management plan shall not be subject to an
14 30 enforcement action other than the assessment of a
14 31 civil penalty pursuant to section 459A.502.

14 32 SUBCHAPTER III

14 33 DESIGN STANDARDS AND CONSTRUCTION REQUIREMENTS

14 34 Sec. 11. NEW SECTION. 459A.301 SETTLED OPEN
14 35 FEEDLOT EFFLUENT BASINS == CONSTRUCTION DESIGN
14 36 STANDARDS == RULES.

14 37 If the department requires that a settled open
14 38 feedlot effluent basin be constructed according to
14 39 construction design standards, regardless of whether
14 40 the department requires the owner to be issued a
14 41 construction permit under section 459A.205, any
14 42 construction design standards for the basin shall be
14 43 established by rules as provided in chapter 17A that
14 44 exclusively account for special design characteristics
14 45 of open feedlot operations and related basins,
14 46 including but not limited to the dilute composition of
14 47 settled open feedlot effluent as collected and stored
14 48 in the basins.

14 49 Sec. 12. NEW SECTION. 459A.302 SETTLED OPEN
14 50 FEEDLOT EFFLUENT BASINS == CONSTRUCTION REQUIREMENTS.

15 1 A settled open feedlot effluent basin required to
15 2 be constructed pursuant to a construction permit
15 3 issued pursuant to section 459A.205 shall meet all of
15 4 the following requirements:

15 5 1. a. Prior to constructing a settled open
15 6 feedlot effluent basin, the site for the basin shall
15 7 be investigated for a drainage tile line by the owner
15 8 of the open feedlot operation. The investigation
15 9 shall be made by digging a core trench to a depth of
15 10 at least six feet deep from ground level at the
15 11 projected center of the berm of the basin. If a
15 12 drainage tile line is discovered, one of the following
15 13 solutions shall be implemented:

15 14 (1) The drainage tile line shall be rerouted
15 15 around the perimeter of the basin at a distance of
15 16 least twenty-five feet horizontally separated from the
15 17 basin.

15 18 (2) The drainage tile line shall be replaced with
15 19 a nonperforated tile line under the basin floor. The
15 20 nonperforated tile line shall not be a drainage tile
15 21 line. There must be a minimum of three feet between
15 22 the tile line and the basin floor.

15 23 b. A written record of the investigation shall be
15 24 submitted as part of the construction certification
15 25 required under section 459A.207.

15 26 2. a. The settled open feedlot effluent basin
15 27 shall be constructed with a minimum separation of two
15 28 feet between the top of the liner of the basin and the
15 29 seasonal high-water table.

15 30 b. If a drainage tile line around the perimeter of
15 31 the basin is installed a minimum of two feet below the
15 32 top of the basin liner to artificially lower the
15 33 seasonal high-water table, the top of the basin's
15 34 liner may be a maximum of four feet below the seasonal
15 35 high-water table. The seasonal high-water table may
15 36 be artificially lowered by gravity flow tile lines, a
15 37 nongravity mechanical system that uses pumping
15 38 equipment, or other similar system.

15 39 3. Drainage tile may be installed to artificially
15 40 lower the seasonal high-water table at a settled open
15 41 feedlot effluent basin, if all of the following
15 42 conditions are satisfied:

15 43 a. A device to allow monitoring of the water in
15 44 the drainage tile lines and a device to allow shutoff
15 45 of the flow in the drainage tile lines are installed,
15 46 if the drainage tile lines do not have a surface
15 47 outlet accessible on the property where the settled
15 48 open feedlot effluent basin is located.

15 49 b. Drainage tile lines are installed horizontally
15 50 at least twenty-five feet away from the settled open
16 1 feedlot effluent basin. Drainage tile lines shall be
16 2 placed in a vertical trench and encased in granular
16 3 material which extends upward to the level of the
16 4 seasonal high-water table.

16 5 4. A settled open feedlot effluent basin shall be
16 6 constructed with at least four feet between the bottom
16 7 of the basin and a bedrock formation.

16 8 5. A settled open feedlot effluent basin
16 9 constructed on a floodplain or within a floodway of a
16 10 river or stream shall comply with rules of the
16 11 department.

16 12 6. The liner of a settled open feedlot effluent
16 13 basin shall comply with all of the following:

16 14 a. The liner shall comply with any of the
16 15 following permeability standards:

16 16 (1) The liner shall be constructed to have a
16 17 percolation rate that shall not exceed one-sixteenth
16 18 inch per day at the design depth of the basin as
16 19 determined by percolation tests conducted by the
16 20 professional engineer. If a clay soil liner is used,
16 21 the liner shall be constructed with a minimum
16 22 thickness of twelve inches or the minimum thickness
16 23 necessary to comply with the percolation rate in this
16 24 section, whichever is greater.

16 25 (2) The liner shall be constructed at optimum
16 26 moisture content not less than ninety-five percent of
16 27 the maximum density as determined by a standard five-
16 28 point proctor test performed at the site of the open
16 29 feedlot operation by a professional engineer. If a
16 30 clay soil liner is used, the liner shall be
16 31 constructed with a minimum thickness of twelve inches.

16 32 b. If a synthetic liner is used, the liner shall
16 33 be installed to comply with the percolation rate
16 34 required in this section.

16 35 7. The owner of an open feedlot operation using a
16 36 settled open feedlot effluent basin shall inspect the
16 37 berms of the basin at least semiannually for evidence
16 38 of erosion. If the inspection reveals erosion which
16 39 may impact the basin's structural stability or the
16 40 integrity of the basin's liner, the owner shall repair
16 41 the berms.

16 42 Sec. 13. NEW SECTION. 459A.303 ALTERNATIVE
16 43 TECHNOLOGY SYSTEMS.

16 44 In lieu of using a settled open feedlot effluent
16 45 basin as provided in section 459A.302 to meet the open
16 46 feedlot effluent control requirements of section
16 47 459A.401, an open feedlot operation may use an
16 48 alternative technology system for open feedlot
16 49 effluent control that provides an equivalent level of
16 50 open feedlot effluent control that would be achieved
17 1 by using a settled open feedlot effluent basin. The
17 2 department shall adopt rules establishing requirements
17 3 for the construction and operation of alternative

17 4 technology systems. The owner of the open feedlot
17 5 operation shall only use an alternative technology
17 6 system which includes the installation of a water
17 7 pollution monitoring system. The owner shall operate
17 8 the water pollution monitoring system for two years
17 9 after its installation. After that date, if the
17 10 monitoring demonstrates compliance with the
17 11 requirement of this section, the owner may discontinue
17 12 monitoring. If the monitoring does not demonstrate
17 13 compliance with the requirement of this section, the
17 14 department may require an additional monitoring
17 15 period.

17 16 SUBCHAPTER IV

17 17 OPEN FEEDLOT EFFLUENT CONTROL

17 18 Sec. 14. NEW SECTION. 459A.401 OPEN FEEDLOT
17 19 EFFLUENT CONTROL METHODS.

17 20 An open feedlot operation shall provide for the
17 21 management of open feedlot effluent by using an open
17 22 feedlot effluent control method as follows:

17 23 1. All settleable solids from open feedlot
17 24 effluent shall be removed prior to discharge into the
17 25 waters of the state.

17 26 a. The settleable solids shall be removed by use
17 27 of a solids settling facility. The construction of a
17 28 solids settling facility is not required where
17 29 existing site conditions provide for removal of
17 30 settleable solids prior to discharge into the waters
17 31 of the state.

17 32 b. The removal of settleable solids shall be
17 33 deemed to have occurred when the velocity of flow of
17 34 the open feedlot effluent has been reduced to less
17 35 than point five feet per second for a minimum of five
17 36 minutes. A solids settling facility shall have
17 37 sufficient capacity to store settled solids between
17 38 periods of land application and to provide required
17 39 flow=velocity reduction for open feedlot effluent flow
17 40 volumes resulting from a precipitation event of less
17 41 intensity than a ten-year, one-hour frequency event.
17 42 A solids settling facility which receives open feedlot
17 43 effluent shall provide a minimum of one square foot of
17 44 surface area for each eight cubic feet of open feedlot
17 45 effluent per hour resulting from a ten-year, one-hour
17 46 frequency precipitation event.

17 47 2. The following shall apply to an open feedlot
17 48 operation which has an animal unit capacity of one
17 49 thousand animal units or more:

17 50 a. Except as provided in this paragraph, the open
18 1 feedlot operation shall not discharge open feedlot
18 2 effluent from an open feedlot operation structure into
18 3 any waters of the United States. An open feedlot
18 4 operation may discharge open feedlot effluent into any
18 5 waters of the United States due to a precipitation
18 6 event, if any of the following apply:

18 7 (1) For an open feedlot operation that houses
18 8 cattle, other than veal cattle, the operation is
18 9 designed, constructed, operated, and maintained to not
18 10 discharge open feedlot effluent resulting from a
18 11 twenty-five-year, twenty-four-hour precipitation event
18 12 into any waters of the United States.

18 13 (2) For an open feedlot operation that houses veal
18 14 calves, swine, chickens, or turkeys, the operation is
18 15 designed, constructed, operated, and maintained to not
18 16 discharge open feedlot effluent resulting from a one=
18 17 hundred-year, twenty-four-hour precipitation event
18 18 into any waters of the United States.

18 19 b. If the open feedlot operation is designed,
18 20 constructed, and operated in accordance with the
18 21 requirements of an open feedlot effluent control
18 22 system as provided in rules adopted by the department,
18 23 the operation shall be deemed to be in compliance with
18 24 this section, unless a discharge from the operation
18 25 causes a violation of state water quality standards as
18 26 provided in chapter 455B, division III.

18 27 c. The open feedlot operation shall not be
18 28 required to be issued an operating permit if the
18 29 operation does not discharge open feedlot effluent
18 30 into any waters of the United States.

18 31 d. The control of open feedlot effluent
18 32 originating from the open feedlot operation may be
18 33 accomplished by the use of a solids settling facility,
18 34 settled open feedlot effluent basin, alternative

18 35 technology system, or any other open feedlot effluent
18 36 control structure or practice approved by the
18 37 department. The department may require the diversion
18 38 of surface drainage prior to contact with an open
18 39 feedlot operation structure. Solids shall be settled
18 40 from open feedlot effluent before the effluent enters
18 41 a settled open feedlot effluent basin or alternative
18 42 technology system.

18 43 Sec. 15. NEW SECTION. 459A.402 OPEN FEEDLOT
18 44 EFFLUENT CONTROL == ALTERNATIVE CONTROL PRACTICES.

18 45 If because of topography or other factors related
18 46 to the site of an open feedlot operation it is
18 47 economically or physically impractical to comply with
18 48 open feedlot effluent control requirements using an
18 49 open feedlot control method in section 459A.401, the
18 50 department shall allow the use of other open feedlot
19 1 effluent control practices if those practices will
19 2 provide an equivalent level of open feedlot effluent
19 3 control that would be achieved by using an open
19 4 feedlot effluent control method pursuant to section
19 5 459A.401.

19 6 Sec. 16. NEW SECTION. 459A.410 EFFLUENT
19 7 APPLICATION REQUIREMENTS.

19 8 Open feedlot effluent shall be applied in a manner
19 9 which does not cause surface water or groundwater
19 10 pollution. Application in accordance with the
19 11 provisions of state law, including this chapter, rules
19 12 adopted pursuant to the provisions of state law,
19 13 including this chapter, and guidelines adopted
19 14 pursuant to this chapter, shall be deemed as
19 15 compliance with this section.

19 16 Sec. 17. NEW SECTION. 459A.411 DISCONTINUANCE OF
19 17 OPERATIONS.

19 18 The owner of an open feedlot operation who
19 19 discontinues the use of the operation shall remove all
19 20 open feedlot effluent from related open feedlot
19 21 operation structures used to store open feedlot
19 22 effluent, as soon as practical but not later than six
19 23 months following the date the open feedlot operation
19 24 is discontinued.

19 25 SUBCHAPTER V 19 26 ENFORCEMENT

19 27 Sec. 18. NEW SECTION. 459A.501 GENERAL.

19 28 The department and the attorney general shall
19 29 enforce the provisions of this chapter in the same
19 30 manner as provided in chapter 455B, division I, unless
19 31 otherwise provided in this chapter.

19 32 Sec. 19. NEW SECTION. 459A.502 VIOLATIONS ==
19 33 CIVIL PENALTY.

19 34 A person who violates this chapter shall be subject
19 35 to a civil penalty which shall be established,
19 36 assessed, and collected in the same manner as provided
19 37 in section 455B.191. Any civil penalty collected and
19 38 interest on a civil penalty shall be deposited in the
19 39 animal agriculture compliance fund created in section
19 40 459.401. A person shall not be subject to a penalty
19 41 under this section and a penalty under section 459.603
19 42 for the same violation.

19 43 DIVISION II 19 44 CONFORMING AMENDMENTS

19 45 Sec. 20. Section 455B.103, subsections 3 and 4,
19 46 Code 2005, are amended to read as follows:

19 47 3. Contract, with the approval of the commission,
19 48 with public agencies of this state to provide all
19 49 laboratory, scientific field measurement and
19 50 environmental quality evaluation services necessary to
20 1 implement the provisions of this chapter, ~~and chapter~~
20 2 459, ~~subchapters II and III and chapter 459A~~. If the
20 3 director finds that public agencies of this state
20 4 cannot provide the laboratory, scientific field
20 5 measurement and environmental evaluation services
20 6 required by the department, the director may contract,
20 7 with the approval of the commission, with any other
20 8 public or private persons or agencies for such
20 9 services or for scientific or technical services
20 10 required to carry out the programs and services
20 11 assigned to the department.

20 12 4. Conduct investigations of complaints received
20 13 directly or referred by the commission created in
20 14 section 455A.6 or other investigations deemed
20 15 necessary. While conducting an investigation, the

20 16 director may enter at any reasonable time in and upon
20 17 any private or public property to investigate any
20 18 actual or possible violation of this chapter, ~~or~~
20 19 chapter 459, ~~subchapters II and III, chapter 459A,~~ or
20 20 the rules or standards adopted under this chapter, ~~or~~
20 21 chapter 459, ~~subchapters II and III or chapter 459A.~~
20 22 However, the owner or person in charge shall be
20 23 notified.

20 24 Sec. 21. Section 455B.103A, subsection 1,
20 25 unnumbered paragraph 1, Code 2005, is amended to read
20 26 as follows:

20 27 If a permit is required pursuant to this chapter,
20 28 ~~or chapter 459, or chapter 459A~~ for stormwater
20 29 discharge or an air contaminant source and a facility
20 30 to be permitted is representative of a class of
20 31 facilities which could be described and conditioned by
20 32 a single permit, the director may issue, modify, deny,
20 33 or revoke a general permit for all of the following
20 34 conditions:

20 35 Sec. 22. Section 455B.103A, subsection 5, Code
20 36 2005, is amended to read as follows:

20 37 5. The enforcement provisions of division II of
20 38 this chapter and chapter 459, subchapter II, apply to
20 39 general permits for air contaminant sources. The
20 40 enforcement provisions of division III, part 1, of
20 41 this chapter, ~~and~~ chapter 459, subchapter III, ~~and~~
20 42 ~~chapter 459A~~ apply to general permits for stormwater
20 43 discharge.

20 44 Sec. 23. Section 455B.105, subsections 3, 6, and
20 45 8, Code 2005, are amended to read as follows:

20 46 3. Adopt, modify, or repeal rules necessary to
20 47 implement this chapter, ~~and~~ chapter 459, ~~and~~ chapter
20 48 ~~459A~~, and the rules deemed necessary for the effective
20 49 administration of the department. When the commission
20 50 proposes or adopts rules to implement a specific
21 1 federal environmental program and the rules impose
21 2 requirements more restrictive than the federal program
21 3 being implemented requires, the commission shall
21 4 identify in its notice of intended action or adopted
21 5 rule preamble each rule that is more restrictive than
21 6 the federal program requires and shall state the
21 7 reasons for proposing or adopting the more restrictive
21 8 requirement. In addition, the commission shall
21 9 include with its reasoning a financial impact
21 10 statement detailing the general impact upon the
21 11 affected parties. It is the intent of the general
21 12 assembly that the commission exercise strict oversight
21 13 of the operations of the department. The rules shall
21 14 include departmental policy relating to the disclosure
21 15 of information on a violation or alleged violation of
21 16 the rules, standards, permits or orders issued by the
21 17 department and keeping of confidential information
21 18 obtained by the department in the administration and
21 19 enforcement of this chapter, ~~and~~ chapter 459, ~~and~~
21 20 ~~chapter 459A~~. Rules adopted by the executive
21 21 committee before January 1, 1981, shall remain
21 22 effective until modified or rescinded by action of the
21 23 commission.

21 24 6. Approve all contracts and agreements under this
21 25 chapter, ~~and~~ chapter 459, ~~and~~ chapter 459A between the
21 26 department and other public or private persons or
21 27 agencies.

21 28 8. Hold public hearings, except when the evidence
21 29 to be received is confidential pursuant to this
21 30 chapter, chapter 22, ~~or~~ chapter 459, ~~or~~ chapter 459A,
21 31 necessary to carry out its powers and duties. The
21 32 commission may issue subpoenas requiring the
21 33 attendance of witnesses and the production of evidence
21 34 pertinent to the hearings. A subpoena shall be issued
21 35 and enforced in the same manner as provided in civil
21 36 actions.

21 37 Sec. 24. Section 455B.105, subsection 11,
21 38 paragraph a, unnumbered paragraph 1, Code 2005, is
21 39 amended to read as follows:

21 40 Adopt, by rule, procedures and forms necessary to
21 41 implement the provisions of this chapter, ~~and~~ chapter
21 42 ~~459, and chapter 459A~~ relating to permits, conditional
21 43 permits, and general permits. The commission may also
21 44 adopt, by rule, a schedule of fees for permit and
21 45 conditional permit applications and a schedule of fees
21 46 which may be periodically assessed for administration

21 47 of permits and conditional permits. In determining
21 48 the fee schedules, the commission shall consider:

21 49 Sec. 25. Section 455B.109, subsection 4, Code
21 50 2005, is amended to read as follows:

22 1 4. a. All Except as provided in paragraph "b",
22 2 civil penalties assessed by the department and
22 3 interest on the penalties shall be deposited in the
22 4 general fund of the state. ~~However, civil~~

22 5 b. The following provisions shall apply to animal
22 6 feeding operations:

22 7 (1) Civil penalties assessed by the department and
22 8 interest on the civil penalties, arising out of
22 9 violations involving animal feeding operations under
22 10 chapter 459, subchapter II, shall be deposited in the
22 11 animal agriculture compliance fund as created in
22 12 section 459.401.

22 13 (2) Civil penalties assessed by the department and
22 14 interest on the penalties arising out of violations
22 15 committed by animal feeding operations under chapter
22 16 459, subchapter III, which may be assessed pursuant to
22 17 section 455B.191 or 459.604, shall also be deposited
22 18 in the animal agriculture compliance fund.

22 19 (3) Civil penalties assessed by the department and
22 20 interest on the civil penalties, arising out of
22 21 violations involving open feedlot operations under
22 22 chapter 459A, shall be deposited in the animal
22 23 agriculture compliance fund as created in section
22 24 459.401.

22 25 Sec. 26. Section 455B.111, subsection 1,
22 26 paragraphs a and b, Code 2005, are amended to read as
22 27 follows:

22 28 a. A person, including the state of Iowa, for
22 29 violating any provision of this chapter; ~~or~~ chapter
22 30 459, subchapters I, II, III, IV, and VI; ~~chapter~~
22 31 ~~459A;~~ or a rule adopted pursuant to this chapter; ~~or~~
22 32 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
22 33 ~~chapter 459A.~~

22 34 b. The director, the commission, or any official
22 35 or employee of the department where there is an
22 36 alleged failure to perform any act or duty under this
22 37 chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,
22 38 and VI; ~~chapter 459A;~~ or a rule adopted pursuant to
22 39 this chapter; ~~or~~ chapter 459, subchapters I, II, III,
22 40 IV, and VI; ~~or~~ chapter 459A, which is not a
22 41 discretionary act or duty.

22 42 Sec. 27. Section 455B.111, subsection 5, Code
22 43 2005, is amended to read as follows:

22 44 5. This section does not restrict any right under
22 45 statutory or common law of a person or class of person
22 46 to seek enforcement of provisions of this chapter, ~~or~~
22 47 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
22 48 ~~chapter 459A;~~ or a rule adopted pursuant to this
22 49 chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,
22 50 and VI; ~~or~~ chapter 459A, or seek other relief
23 1 permitted under the law.

23 2 Sec. 28. Section 455B.112, Code 2005, is amended
23 3 to read as follows:

23 4 455B.112 ACTIONS BY ATTORNEY GENERAL.

23 5 In addition to the duty to commence legal
23 6 proceedings at the request of the director or
23 7 commission under this chapter; ~~or~~ chapter 459,
23 8 subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A
23 9 the attorney general may institute civil or criminal
23 10 proceedings, including an action for injunction, to
23 11 enforce the provisions of this chapter; ~~or~~ chapter
23 12 459, subchapters I, II, III, IV, and VI; ~~or~~ chapter
23 13 ~~459A~~ including orders or permits issued or rules

23 14 adopted under this chapter; ~~or~~ chapter 459,
23 15 subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A.

23 16 Sec. 29. Section 455B.113, subsection 1, Code
23 17 2005, is amended to read as follows:

23 18 1. The director shall certify laboratories which
23 19 perform laboratory analyses of samples required to be
23 20 submitted by the department by this chapter; ~~or~~
23 21 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
23 22 ~~chapter 459A,~~ or by rules adopted in accordance with
23 23 this chapter; ~~or~~ chapter 459, subchapters I, II, III,
23 24 IV, and VI; ~~or~~ chapter 459A; or by permits or orders
23 25 issued under this chapter; ~~or~~ chapter 459, subchapters
23 26 I, II, III, IV, and VI; ~~or~~ chapter 459A.

23 27 Sec. 30. Section 455B.115, Code 2005, is amended

23 28 to read as follows:

23 29 455B.115 ANALYSIS BY CERTIFIED LABORATORY

23 30 REQUIRED.

23 31 Laboratory analysis of samples as required by this
23 32 chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,
23 33 and VI; ~~or~~ chapter 459A; or by rules adopted, or by
23 34 permits or orders issued pursuant to this chapter; ~~or~~
23 35 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
23 36 chapter 459A shall be conducted by a laboratory

23 37 certified by the director as having the necessary
23 38 competence, equipment, and capabilities to perform the
23 39 analysis. Analytical results from laboratories not
23 40 certificated shall not be accepted by the director.

23 41 Sec. 31. Section 455B.179, Code 2005, is amended

23 42 to read as follows:

23 43 455B.179 TRADE SECRETS PROTECTED.

23 44 Upon a satisfactory showing by any person to the
23 45 director that public disclosure of any record, report,
23 46 permit, permit application, or other document or
23 47 information or part thereof would divulge methods or
23 48 processes entitled to protection as a trade secret,
23 49 any such record, report, permit, permit application,
23 50 or other document or part thereof other than effluent
24 1 data and analytical results of monitoring of public
24 2 water supply systems, shall be accorded confidential
24 3 treatment. Notwithstanding the provisions of chapter
24 4 22, a person in connection with duties or employment
24 5 by the department shall not make public any
24 6 information accorded confidential status; however, any
24 7 such record or other information accorded confidential
24 8 status may be disclosed or transmitted to other
24 9 officers, employees, or authorized representatives of
24 10 this state or the United States concerned with
24 11 carrying out this part of this division; ~~or~~ chapter
24 12 459, subchapter III, or chapter 459A; or when relevant
24 13 in any proceeding under this part of this division; ~~or~~
24 14 chapter 459, subchapter III; or chapter 459A.

24 15 Sec. 32. Section 455B.182, Code 2005, is amended

24 16 to read as follows:

24 17 455B.182 FAILURE CONSTITUTES CONTEMPT.

24 18 Failure to obey any order issued by the department
24 19 with reference to a violation of this part of this
24 20 division; ~~or~~ chapter 459, subchapter III; ~~or~~ chapter
24 21 459A; or any rule promulgated or permit issued
24 22 pursuant thereto shall constitute prima facie evidence
24 23 of contempt. In such event the department may certify
24 24 to the district court of the county in which such
24 25 alleged disobedience occurred the fact of such
24 26 failure. The district court after notice, as
24 27 prescribed by the court, to the parties in interest
24 28 shall then proceed to hear the matter and if it finds
24 29 that the order was lawful and reasonable it shall
24 30 order the party to comply with the order. If the
24 31 person fails to comply with the court order, that
24 32 person shall be guilty of contempt and shall be fined
24 33 not to exceed five hundred dollars for each day that
24 34 the person fails to comply with the court order. The
24 35 penalties provided in this section shall be considered
24 36 as additional to any penalty which may be imposed
24 37 under the law relative to nuisances or any other
24 38 statute relating to the pollution of any waters of the
24 39 state or related to public water supply systems and a
24 40 conviction under this section shall not be a bar to
24 41 prosecution under any other penal statute.

24 42 Sec. 33. Section 455B.185, Code 2005, is amended

24 43 to read as follows:

24 44 455B.185 DATA FROM DEPARTMENTS.

24 45 The commission and the director may request and
24 46 receive from any department, division, board, bureau,
24 47 commission, public body, or agency of the state, or of
24 48 any political subdivision thereof, or from any
24 49 organization, incorporated or unincorporated, which
24 50 has for its object the control or use of any of the
25 1 water resources of the state, such assistance and data
25 2 as will enable the commission or the director to
25 3 properly carry out their activities and effectuate the
25 4 purposes of this part 1 of division III; ~~and~~ chapter
25 5 459, subchapter III; or chapter 459A. The department
25 6 shall reimburse such agencies for special expense
25 7 resulting from expenditures not normally a part of the
25 8 operating expenses of any such agency.

25 9 Sec. 34. Section 459.102, subsection 2, paragraph
25 10 a, Code 2005, is amended to read as follows:
25 11 a. A settled open feedlot effluent basin that
~~25 12 collects and stores only precipitation-induced runoff~~
~~25 13 from an open feedlot as defined in section 459A.102.~~
25 14 Sec. 35. Section 459.102, subsections 37, 45, and
25 15 46, Code 2005, are amended by striking the
25 16 subsections.
25 17 Sec. 36. Section 459.401, subsection 2, paragraph
25 18 a, subparagraph (5), Code 2005, is amended to read as
25 19 follows:
25 20 (5) The collection of civil penalties assessed by
25 21 the department and interest on civil penalties,
25 22 arising out of violations involving animal feeding
25 23 operations as provided in sections 459.602, ~~and~~
25 24 ~~459.603, and 459A.502.~~
25 25 Sec. 37. Section 459.309, Code 2005, is repealed.>
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